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COMMERCE FOR BIS (GOLDMAN)
NSC FOR DICASAGRANDE
WINPAC FOR WALTER

E.O. 12958: N/A

TAGS: PARM PREL CWC

SUBJECT: CHEMICAL WEAPONS CONVENTION (CWC): WRAP-UP FOR
46TH EXECUTIVE COUNCIL SESSION, JULY 4-7

REF: STATE 109387

This is CWC-61-06.

SUMMARY

¶1. (SBU) It has been clear for some time that EC-47 in November would be a crucial (and difficult) session. The twin goals for EC-46 were to 1) lay a solid foundation for EC-47 approval of the U.S. request for an extension of its 100% destruction deadline, and 2) establish an atmosphere and framework conducive to reaching key decisions at EC-47 on Article VII obligations. Both goals were achieved. On the extension request, delegations continued to respond positively to the transparent U.S. approach. However, Russia made clear that it has a different approach in handling its extension request, particularly on the UK proposal for site visits. As a result, other delegations appear energized to play some type of role concerning the Russian request, which may have some (still to be determined) spillover effect on the U.S. request.

¶2. (U) On Article VII, the immediate task was achieving substantive report language, but the overarching goal was to re-establish a positive negotiating atmosphere. There were no key milestones for EC-46 from the decision at the 10th Conference of States Parties. Those are all lined up for EC-47, and it would have been virtually impossible to reach agreement in November if EC-46 had crashed and burned on Article VII. A tortuous negotiating procedure finally generated solid report language and a constructive atmosphere. Notably, the Technical Secretariat said it felt it has a clear Article VII mandate and direction from delegations.

¶3. (U) In addition, the EC made some important decisions. Financial rules were finally approved for the OPCW. The Libyan extension requests were approved, as well as the China/Japan extension request on abandoned CW. Moreover, the Director General put forth his proposed zero nominal growth budget for 2007. And the first meeting was held for the working group preparing for the Second Review Conference.

However, the key goal for EC-46, which was achieved, was to lay the foundation for success at a challenging EC in November. End Summary.

U.S. and Russian Destruction Deadlines

¶ 4. (U) The U.S. presented its draft decision to the EC, highlighting that approval would not affect its obligation to destroy all CW by April 29, 2012, and the acceptance, in principle and under appropriate conditions, of site visits. The U.S. requested support for the decision at EC-47, and the document was quickly deferred, without comment from any other delegation. A more detailed report on the state of play concerning the extension request and recommendations from the del will be provided septel.

¶ 5. (U) In contrast to the U.S., the Russians appeared determined to draw as much attention as possible to their deadline extension request. Several delegations (UK, France, Germany and Mexico) requested deferral of the decision, with the first three emphasizing the absence of a provision for site visits. Russia then noted that the UK proposal from EC-45 had no official status and indicated it was unclear to which agenda item it even applied. In subsequent bilateral discussions, the UK noted Russia exhibited little to no flexibility on incorporating language on site visits in their decision text.

¶ 6. (U) When the EC returned to the issue later in the session, Russia's unwillingness to concede the need to defer the decision to EC-47 drew statements from France, Germany, Ireland, Finland, Czech Republic, Poland, Slovakia, Norway,

Sweden, Belgium, Brazil and the UK (which had coordinated the reaction) pressing for acceptance of site visits. Russia voiced opposition to this, arguing that it was not a good use of time, money and effort, and that Russia still intended to meet the 2012 deadline. Russia also argued there were no basis in the CWC for such visits, and that this could be discussed in consultations after approval of the Russian decision. The Russian delegation also stated that this should not be an annual exercise, captured in the draft decision, but instead could be conducted on a case-by-case basis, if necessary.

¶ 7. (U) Finally, Russia introduced last minute changes to EC report language to add references to the original Russian extension request in 2001 and the 2003 CSP decision that extended the 100 percent deadline in principle. Though factually correct, this raised concerns among many EU countries over the implication that, given the "in principle" extension already granted, Russia was under no real pressure to negotiate the terms of its current draft decision. The U.S. del requested that equivalent report language be added, referring to a virtually identical 2003 CSP decision on U.S. deadlines. This provoked a response from Iran, who used the opportunity to highlight the differences between U.S. and Russian circumstances. The issue was resolved with the addition of previously approved text affirming that the 2003 CSP decisions did not alter U.S. or Russian obligations under the treaty.

Article VII

¶ 8. (U) The EC noted the DG's report, and after extensive consultations in both informal and small group settings, delegations finally agreed on Article VII report language. India, supported by Algeria, Iran, India, Mexico, Pakistan, and Algeria, presented competing draft report language, noting progress and exhorting implementing states to continue their efforts. The U.S., supported by Australia, Belgium, Canada, China, France, Germany, Ghana, Ireland, Italy, Japan, New Zealand, Portugal, Switzerland and the UK, preferred stronger language, reflecting the work that needs to be

completed by EC-47.

¶9. (U) The U.S. noted that the necessary elements for implementing states are establishment of National Authorities, finalizing drafts of implementing legislation, submitting plans for enacting legislation, and requesting assistance. A paragraph should also encourage states willing and able to do so to assist implementing states. Acceptance of the latter element was the most difficult. Finally, only Pakistan was unwilling to accept the assistance paragraph, noting strict instructions from capital. After yet another small group session, Pakistan reluctantly accepted revised language (in nearly incomprehensible English, with many clauses and sub clauses) regarding the provision of assistance to implementing states.

¶10. (U) After the report language was approved, Iran intervened to protest the protracted Article VII negotiation process. Although many critical issues were on the EC-46 agenda, Iran and other small delegations were unable to attend to them because of the endless Article VII sessions. Iran pleaded for the facilitator to change the way he manages the effort, in order to allow time to focus on other issues. (Note: Privately, the Iranian told del rep that the facilitator was not holding bilateral discussions on his drafts, which prevented him from presenting delegations with a near consensus text. In the Iranian's opinion, this resulted in the on-going difficulties negotiating the draft language.)

China/Japan

¶11. (U) The EC approved, without discussion, the joint China/Japan request to extend the deadline for completing destruction of CW abandoned in China by Japan to April 29, ¶2012. (Comment: the Japanese del privately confirmed that, because of sensitivity to Chinese concerns, the abandoned CW in China, though all pre-1946 and mostly in deteriorated condition, would not also be considered "old CW." This explains why the reference to old and abandoned CW in the original draft decision, which was added by the TS on its own, was removed at the request of Japan and China. End comment.)

¶12. (SBU) U.S./PRC bilateral consultations: On the margins of the EC, del reps from Washington discussed informally with MFA representatives from Beijing the Chinese proposal to hold bilateral discussions on CWC implementation issues in the fall. The PRC representatives were Chen Kai of the MFA office responsible for CBW issues (and previously on the Chinese OPCW delegation), and a Mr. Yu from the Japanese ACW office. The U.S. confirmed that it planned to respond to the China's proposal in the near future, and informally suggested that the meeting be held the week following EC-47, which is scheduled for November 7-10. Kai indicated China was very flexible regarding the carrying out of these discussions and saw this as hopefully the first in a series of meetings.

¶13. (SBU) The PRC reps indicated that China planned to open the discussions with detailed presentations about the status of CWC implementation in the areas of industry and ACW. Kai also mentioned previous bilateral discussions on CWC declarations, and expressed a willingness to continue such talks. Yu, who said that the ACW office was taking the lead from the CBW office, said that Japan and China are nearing the end of the initial design phase of the destruction facility, and would soon start the "analysis period," when the plan would be evaluated in terms of feasibility, safety and environmental impact. Yu said that his office was particularly interested in, inter alia, the U.S. perspective on these aspects, and ultimately would be interested in visiting a U.S. CW destruction facility. U.S. reps said that they would communicate PRC thinking on the bilateral discussions of the ACW issue to Washington. Both sides agreed that it would be useful if materials for the

discussions could be exchanged in advance.

¶14. (SBU) Del rep informed a member of the Japanese delegation about the current status of the issue of U.S./China bilateral discussions. Del rep offered reassurances that the U.S. would continue to keep Japan fully informed in advance of further actions, including, if possible, explaining to the Japanese what the U.S. intended to present on the CW destruction issue. The Japanese rep expressed appreciation.

Second Review Conference Working Group Meeting

¶15. (U) Ambassador Parker (UK) chaired the first preparatory meeting for the Second Review Conference on July 7. Most of the discussion focused on dates for future meetings and the structure and themes. Delegates agreed on the following three dates for meetings: Friday, September 29; Monday, November 13 (the Monday after EC-47); and Monday, December 4 (the Monday of the CSP that starts on Tuesday). Thereafter, Ambassador Parker will hold meetings every 4-6 weeks.

¶16. (U) Parker said that the informal bureau had already met once and decided that the meetings and the RevCon itself should be structured in such a way that all delegations will be able to contribute. To that end, Parker committed to notify all delegations well in advance of meetings and any other activities related to the conference. He also said that informal papers and other documents related to the conference, including an informal summary of each meeting, would be posted on the external server. Parker proposed that the first RevCon report would serve as a starting point for discussions.

¶17. (U) The DG said that the TS had begun work on a summary of TS activities since the last RevCon and he hoped to have the report ready in time for the next meeting. He also informed delegates that former senior advisor Ralf Trapp had been hired on a consultancy basis to serve as an advisor to the RevCon. The DG told delegates that he has already asked the Scientific Advisory Board and the International Union of Applied Chemistry to provide their thoughts on the RevCon. The DG said that the Congress Center was available from April 7-18, 2008 for the RevCon, and Parker asked that delegates inform him by the end of September if any had a problem with those dates.

¶18. (U) On the subjects to be covered at the conference, the UK suggested that there should be a focus on issues that remain outstanding from the first RevCon. The UK also laid down a marker and said it did not believe that any amendments of the CWC would need to be considered to deal with new toxic chemicals. The UK also said it would be premature to discuss destruction deadlines at the RevCon. They called for solid input from the SAB and a greater focus on assistance and protection as well as universality and Article VII at the conference.

¶19. (U) Germany and Japan generally supported the UK view, with Japan adding that the modalities for including NGO and other non-SP participation would have to be closely examined. The Japanese also supported using the First RevCon as a starting point for discussions. India said they were opposed to an issues-based approach to the conference and would prefer instead to go article by article through the CWC. Iran supported the Japanese proposal that non-SP participation be closely studied.

¶20. (U) EC-46 results are outlined below, with numbering from the annotated provisional agenda.

Item 3 - Statement by the Director General

¶21. (U) DG Pfirter gave his customary overview of the

activities of the Technical Secretariat. He noted the extension requests for destruction of Category 1 chemical weapons, and also referred to the extension request of China and Japan concerning abandoned CW. Pfirter said six CW destruction facilities were operational, and three additional CWDFs will resume or start operations in July. He also noted the destruction delay in Albania. He mentioned the uncertainty in a Schedule 2 inspection in Germany, and that the TS and Germany are working on the issue. The Verification Information System has had consistent progress, but needs cooperation from States Parties; he cited the necessity to move to electronic submission of declarations. The TS is preparing to provide assistance to facilitate this transition, utilizing meetings of National Authorities, seminars and workshops.

¶22. (U) On International Cooperation and Assistance, Pfirter cited TS work to improve national capabilities, assistance and protection courses and training in advanced live-agents. He commented on implementation support activities, and noted progress on Article VII and member states assistance in Technical Assistance Visits. The DG expressed thanks for "the remarkable way in which the U.S. has been assisting us."

¶23. (U) The DG noted the universality workshop in Rome in October, reporting that he wrote to the Foreign Ministers of Egypt, Israel, Lebanon and Syria inviting them to send high-level representatives to the meeting. He also mentioned the universality workshop in Africa, hosted by Algeria in November. Pfirter reported on work preparing for the 10th anniversary of the CWC in 2007. He was also pleased to note the progress on preparations for the Second Review Conference in 2008. The DG spoke about his proposed 2007 budget, reiterating the points he made when he presented it to delegations on June 28, and he was pleased to note the appointment of Walter Leon (Belgium) and Hela Lahmar

(Tunisia) as the new budget co-facilitators. The DG also highlighted the approval of the OPCW's Financial Rules after a delay of nine years.

¶24. (U) Pfirter mentioned his note cataloging instruments signed by the TS with governments of SPs and organs of equivalent function, and proposed this list be updated in the annual report of the OPCW. In regard to the tenure policy, he submitted his annual report on implementation, stressing that he is still fine-tuning the document he will present to the EC this autumn about possible modifications on tenure policy. He regretted the late circulation of documents for EC-46, in particular the Verification Information Report, noting the short time frame between EC-45 and EC-46. He has asked the Deputy DG and Office of Internal Oversight to look into this matter and report back to him.

Item 4 - General Debate

¶25. (U) There were only 14 speakers, a relatively small number. With the exception of Sudan, the main topic was extension requests, and the second was Article VII. (Sudan reversed the order.) Delegations stressed that destruction should not go beyond 2012, implying that destruction beyond that date would damage the CWC. Japan and China made note of their joint extension request on Japanese ACW in China. Russia said although progress has been made on destruction, there is a lot to be done. They noted nearly all possessor states are having trouble meeting deadlines. (Note: This was the only topic Russia discussed in its speech.)

¶26. (U) A few delegations, including Finland for the EU, Mexico and ROK mentioned the possibility of visits to capitals and sites to increase transparency on this issue, with the EU emphasizing the political dimension of holding discussions in capitals. On Article VII, most delegations acknowledged progress made to date and NAM delegations praised the cooperation and assistance approach, encouraging continued use of this approach. Sudan, on behalf of the

Africa Group, noted their concern on under-representation of Africans in the TS.

¶127. (U) (Note: During the writing of the EC-46 report, Sudan asked for an addition to the General Debate paragraph reflecting the Africa Group's stated concern on this matter. The U.S. stressed that a precedent of listing key items raised by all speakers in the debate would lead to an unwieldy process. The DG stated that the TS always has equitable geographical representation in mind while staffing the TS. He also gave his personal assurances this will continue to be the case. Sudan accepted these reassurances from the DG.)

¶128. (U) Most delegations praised the DG's 2007 zero nominal growth budget and welcomed the budget co-facilitators. ICA was an important topic for the NAM, calling for additional funding. They also noted the need for complete implementation of Article XI. Nearly half of the delegations called for completion of a new OCPF site selection methodology, some of whom noted political elements should not be included in the methodology. Finally, most delegations were pleased work has begun on the second RevCon.

Item 5 - Status of Implementation of Convention

¶129. (U) Item 5.1: The EC agreed to defer until the next session the verification plan for the CWDF in India. Although the TS and India continue to discuss the remaining outstanding issues, the U.S. again stated that it was unable to join consensus on this plan and the associated facility agreement until all issues have been resolved. (Comment: Senior TS reps informed del that India is finalizing its approval of the most recent draft Facility Agreement proposed by the TS. As this draft apparently makes direct reference

to a need to address continuing concerns at the facility, this is surprising, but welcome, progress. End comment.)

¶130. (U) Item 5.2: The EC approved the Albanian agreed detailed plan for verification of the destruction of CW for the Qaf-Molla CWDF.

¶131. (U) Item 5.3: At the request of the U.S., the combined plan for the destruction and verification of the Aberdeen Proving Ground, HD Production, Distillation, and Fill Facility was deferred until the next EC session due to late distribution of the document by the TS.

¶132. (U) Item 5.4 and 5.5: The EC approved the three corrections to the detailed plan for destruction for the VX-type substance and filling it into munitions at Novecheboksarsk.

¶133. (U) Item 5.6: the EC approved the corrections to the detailed plan for conversion for the CWPWF at Volgograd.

¶134. (U) Item 5.7: The EC agreed to note the Note by the TS on the progress in converting CWPWFs for purposes not prohibited under the CWC.

¶135. (U) Item 5.8: The U.S. and Russia gave a brief account of their progress to date on Category 1 CW destruction. No other possessor state spoke under this agenda item.

¶136. (U) Item 5.9: The EC noted the DG's report on the progress made by SPs that had received extensions to their CWC destruction deadlines.

¶137. (U) Item 5.10: United States Extension Request: Noted above.

¶138. (U) Item 5.11: Russian Extension request: Noted above.

¶139. (U) Item 5.12: Libya: The EC approved, without discussion, the recommendation to the CSP establishing new

intermediate destruction deadlines, as well as extending the 100 percent deadline.

¶40. (U) Item 5.13: China/Japan Request on ACW: Noted above.

¶41. (U) Item 5.14: Albania: The facility agreement for the CWDF at Qaf-Molla was adopted by the EC.

¶42. (U) Item 5.15: Schedule 2 facility agreements. The EC agreed to note the Note by the DG updating on the progress of Schedule 2 facility agreements. This result was achieved after lengthy discussions between the TS, Italy, Germany, Japan, and France, with assistance by the U.S. Italy's concern was that the Annex to the DG's Note contained the positions of the SPs (for example, the language for France says "France does not want to finalize any facility agreements at present") and that this implied a willingness by the TS to go against the language of Verification Annex Part III. (It should be noted that the TS has requested Italy to finalize nine Schedule 2 facility agreements, to which Italy agreed. It appears that Italy wants other SPs to be held to this same standard.) Amended language was agreed upon, and the TS agreed to a corrigendum to the Annex.

¶43. (U) Item 5.16: Article VII. Noted above.

¶44. (U) Item 5.17: Full implementation of Article X. The previously agreed language was approved.

¶45. (U) Item 5.18: Report by DG on readiness of the TS to conduct a challenge inspection. The EC deferred, at U.S. request, consideration of the document to EC-47 due to late distribution of the document.

¶46. (U) Item 5.19: 2005 Verification Implementation Report. The EC deferred the 2005 VIR until EC-47 due to late distribution of the document.

¶47. (U) Item 5.20: Transfers of Schedule 3 chemicals. This item was added to the agenda at the beginning of the EC meeting, upon a recommendation by the facilitator (Arya Sandeep, India) to the EC chair that he expected there to be consensus reached during the week. This move, in and of itself, angered some delegations (e.g., the Netherlands). Del rep made a recommendation in the consultations of last week on a preambular paragraph that would incorporate a reference to the CSP-10 decision concerning universality, with a hope that this would eliminate out-of-context references to pieces of this decision in the operative paragraphs. Although this suggestion was well-received and spurred the spirit of progress, eventually the gap between Iran and the other interested delegations could not be fully closed. The item was deferred, at Germany's recommendation and supported by the U.S. The facilitator is leaving, and the TS and Industry Cluster vice-chair are already soliciting ideas on his replacement.

Item 6 - Draft Report of the OPCW for 2006

¶48. (U) The Council considered the draft report of the OPCW for 2005 (EC-46/CRP.2, dated June 30, 2006). Initially Iran had asked that the report be deferred, as it could not accept the language in paragraph 1.31 related to challenge inspections. Ultimately the U.S., UK and Iran agreed on compromise language for this paragraph and the report was considered. The TS will post the report on its website.

Item 7 - Lists of New Validated Data

¶49. (U) Items 7.1 and 7.2: It was announced that the TS Note assessing the implications of the data contained in the lists of validated data set out in EC-42/DEC/CRP.5, dated 9 September 2005, was not yet available. As a result, consideration and approval of these lists of new validated

data were deferred to EC-47.

¶50. (U) (Note: The Del has seen drafts of this TS Note, as prepared by the staff of the OPCW Laboratory, in coordination with the Validation Group. Because the lists of validated data in question contain unscheduled degradation products and riot control agents (RCA), there is apparently concern within some delegations about this data being used during routine inspections. To this end, this TS Note states in part that the inclusion of this unscheduled degradation product and RCA data would have the following implications: (1) data would not be used in routine inspections under Article VI; (2) data would not impact any declaration requirements; (3) data for RCA would only be used in inspections related to alleged use; (4) data for unscheduled degradation products would only be used in inspections related to alleged use or in challenge inspections; and, (5) subject to facility agreements, the data may be used in chemical weapons destruction site monitoring. The Del does not anticipate any USG concerns with this type of Note, but there is a possibility that delegations like the UK might not want the TS to be restricted in any way in how they use this data, even though the Note clearly expresses TS views.)

¶51. (U) Item 7.3: In accordance with the DG Note (EC-46/DG.1, dated 7 June 2006), the Council considered and approved the lists of new validated data found in EC-46/DEC/CRP.1, dated 16 June 2006 without any comment from delegations.

Item 8 - Establishment of an OPCW Office in Africa

¶52. (U) Facilitator Andres Rugeles (Colombia) made an oral report to the EC on the status of this issue. In the intersessional period he met with the TS to request information on how other international organizations with regional offices operate, including how and whether the OPCW

can utilize the UN relationship agreement. He has also met with African Ambassadors to request their feedback on a proposed location, technical functions, administration and interaction with the TS program of work for the Africa Office. Rugeles indicated he will work with both the TS and Africa Group to compile the information he has requested. He plans to hold open-ended consultations taking this information as a base to work from. The head of the Africa Group (Sudan), expressed his desire for the consultations to begin prior to the summer recess. He also encouraged delegations to continue their support for an OPCW Office in Africa.

Item 9 - Administrative and Financial Matters

¶53. (U) Item 9.1: Draft Programme and Budget for 2007. The EC received the Draft Programme and Budget for 2007. The U.S., Russia, Japan, Sudan and Germany expressed initial support for the proposed budget. Germany called on all SPs to pay their assessed contributions in full and on time.

¶54. (U) Item 9.2: Regularize the payment of dues to the OPCW. The EC deferred action on this item to allow for continued consultations.

¶55. (U) Item 9.3: Audited financial statements for period 31 December 2005. The EC considered the financial statements of the OPCW for 2005 and the External Auditor's report. The facilitator Chiho Komuro (Japan) also gave an oral report.

¶56. (U) Item 9.4: OPCW financial rules. The EC considered and approved the Draft Financial Rules. Prior to approving the rules, facilitator Richard Snelsire (U.S.) noted that the word "the" had been deleted from the agreed text in rule 10.6.04(d) in the last sentence preceding "(inspection requirements." Del will send a letter this week to the TS Legal Advisor making clear the USG position that 10.6.04(d)

does not/not in any way require that vendors must certify that inspection equipment must be available to all SPs to be eligible for purchase.

¶157. (U) Item 9.5: Report by DG on implementation of OPCW policy on tenure. The EC considered and noted the report. The U.S. noted from the floor that future reports on the impact of tenure should be more comprehensive in nature.

¶158. (U) Item 9.6: Transfer Between OPCW Provident Fund and UN Joint Staff Pension Fund. This item was withdrawn from the agenda.

Item 10 - ABAF Report

¶159. (U) The EC considered and noted the report and the DG's note commenting on the ABAF report. The Council also noted the resignation from ABAF of Michael Szlezak. Del rep intervened to give points per guidance.

Item 11 - Note by DG on Instruments Signed by the Secretariat

¶160. (U) The Council noted the note (EC-45/DG.11, dated May 11, 2006 and Add.1., dated June 26, 2006).

Item 12 - Credentials of Representatives to the EC

¶161. (U) This item was approved without discussion.

Item 13 - Provisional Agenda for CSP-11

¶162. (U) The EC, without discussion, "drew up" (i.e., approved) the provisional agenda for CSP-11.

Item 14 - Dates for Executive Council Sessions in 2007

¶163. (U) The EC approved the proposed dates for regular sessions of the EC in 2007. Per guidance, the EC approved report language noting that intersessional activity would continue through mid-July. The EC, at the UK's request, also approved report language that requested the TS to provide by EC-47 a projected plan of work for the EC in 2007 so that the EC could determine if four full EC sessions would be needed. The dates are: Forty-Eighth: March 13-16; Forty-Ninth: June 26-29; Fiftieth: September 25-28; Fifty-First: November 27-30.

¶164. (U) 2008 CSP: Del rep informed Alexander Khodakov, the director of the Secretariat for the Policy-Making Organs, that the U.S. wished to have the 2008 CSP in December. Khodakov said the U.S. request was sufficient for the TS to arrange a provisional reservation with the Congress Center in The Hague. The specific dates for December 2008 could then be put to the EC for consideration at EC-47 with approval at CSP-11 in December 2006.

Item 15 - Any Other Business

¶165. (U) No topics were discussed under this item.

¶166. (U) Ito sends.
ARNALL